

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

United States of America,)
) File No. 19-cr-141(1)
) (PJS/ECW)
Plaintiff,)
)
v.) Minneapolis, Minnesota
) March 30, 2021
Cornett Golden,) 9:00 a.m.
)
Defendant.)

BEFORE THE HONORABLE PATRICK J. SCHILTZ
UNITED STATES DISTRICT COURT JUDGE
(VIDEO CONFERENCE OF FARETTA HEARING)

APPEARANCES

For the Plaintiff:

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For the Defendant:

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Proceedings recorded by mechanical stenography;
transcript produced by computer.

P R O C E E D I N G S

IN OPEN COURT

THE COURTROOM DEPUTY: United States District Court for the District of Minnesota is now in session, the Honorable Patrick J. Schiltz presiding.

THE COURT: Good morning, everyone. We're here today on the case of United States of America v. Cornett Golden. The case is Criminal No. 19-0141.

If I could have the attorneys make their appearances, please, beginning with the prosecutors.

MR. THOMPSON: Good morning, Your Honor. Joe Thompson and Jordan Sing on behalf of the United States.

THE COURT: Good morning.

And Mr. Brown.

MR. BROWN: A.L. Brown on behalf of Mr. Golden.

THE COURT: Good morning, Mr. Brown.

Mr. Golden, good morning to you, sir. Can you hear me okay?

THE DEFENDANT: Yes, sir. I said, "Good morning," Your Honor.

THE COURT: Okay. There was some problem with the audio, but now I hear you just fine.

Okay. Are you able to hear and see me okay, Mr. Golden?

THE DEFENDANT: Yes, sir.

1 THE COURT: All right. And how about the
2 attorneys? Were you able to see and hear them while they
3 were talking?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Okay. It's very important that you be
6 able to see and hear everything that happens at this hearing
7 this morning. So if you have any technological problems,
8 please interrupt me or whoever is speaking and let us know
9 right away. Will you do that?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Okay. Mr. Golden, before we go any
12 further, I have to make sure that you know that you do not
13 have to participate in this hearing by video. You have the
14 right to be physically present in the courtroom for this
15 hearing. You do not have to proceed by video. It's
16 entirely up to you whether to give up your right to appear
17 in person and give us permission to proceed by way of video.
18 It doesn't make any difference to me.

19 So are you aware of the fact that you do have the
20 right to appear in person for this hearing?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: All right. And are you willing to
23 give up your right to appear in person and give us
24 permission to proceed by way of video?

25 THE DEFENDANT: Yes.

1 THE COURT: All right. And, Mr. Brown, are you
2 satisfied that Mr. Golden knows that he has the right to
3 appear in person and he is validly giving up that right?

4 MR. BROWN: I am, Your Honor. And I will add, for
5 the record, he confirmed as much in writing.

6 THE COURT: I accept Mr. Golden's waiver of his
7 right to appear in person, and we'll proceed to conduct this
8 hearing by way of video.

9 Let's proceed. By way of background, Mr. Golden
10 is charged with two counts of bank robbery. In November of
11 2019, shortly before his trial was scheduled to begin,
12 Mr. Golden's then counsel moved to withdraw. I denied that
13 motion finding that Mr. Golden had failed to show
14 justifiable dissatisfaction with his attorney.

15 At the pretrial conference a few days later,
16 however, Mr. Golden submitted a letter to me in which he
17 made additional accusations against his attorney. On the
18 basis of that letter, I continued the trial and ordered that
19 Mr. Golden undergo a competency evaluation. That evaluation
20 found Mr. Golden to be competent. In the meantime, however,
21 I determined that it would be preferable to appoint a new
22 attorney for Mr. Golden. So on May 21st of last year, I
23 appointed Mr. Brown to represent Mr. Golden.

24 In January of this year, Mr. Golden sent me a
25 letter and a motion in which he expressed dissatisfaction

1 with Mr. Brown and asked that yet another attorney be
2 appointed to represent him or that he be allowed to
3 represent himself in this matter. Specifically, in a letter
4 dated January 5th, 2021, Mr. Golden asked to proceed pro se
5 because he said Mr. Brown has a conflict of interest and
6 there has been a total breakdown in communication. I note
7 that although this letter was dated January 5th, I did not
8 receive it until February 11th.

9 Also in a motion that was entitled, "motion for
10 ineffective counsel" and dated January 29th, 2021, a motion
11 that I received on February 3rd, Mr. Golden asked me to
12 appoint new counsel on the basis that Mr. Brown is
13 ineffective and has a conflict of interest. There's been a
14 major breakdown in communication, and he and his counsel
15 differ as to strategy.

16 I held a hearing on Mr. Golden's request on March
17 1st. At the conclusion of that hearing, I found that
18 Mr. Golden had not established justifiable dissatisfaction
19 with Mr. Brown's representation and, thus, I decided that I
20 would not appoint another attorney to represent Mr. Golden.
21 I told Mr. Golden that he had three choices: he could
22 continue to be represented by Mr. Brown, he could hire his
23 own attorney at his own expense, or he could represent
24 himself. I told Mr. Golden that he could take as long as he
25 wanted to decide his options.

1 A day or two later, I learned from Mr. Brown that
2 Mr. Golden had decided he does want to represent himself in
3 this case. Mr. Golden confirmed his decision in a letter to
4 me dated March 11, 2021, which I received on March 15th. So
5 we're here today to conduct a *Faretta* hearing to discuss
6 Mr. Golden's request to represent himself.

7 Mr. Golden, before I can make a decision about
8 your request to represent yourself, I have to ask you some
9 questions and you have to answer those questions under oath.
10 So if I could have you raise your right hand, please, I'll
11 swear you in.

12 (Defendant sworn.)

13 THE COURT: All right. Thank you.

14 BY THE COURT:

15 Q. So, Mr. Golden, I'm required to warn you that because
16 you are under oath if you say anything that is false, you
17 could be prosecuted for the separate crime of perjury, and
18 the government could use against you in that prosecution any
19 false statements you give under oath. So it's important
20 that you be truthful in everything you say to me today. Do
21 you understand that?

22 A. Yes.

23 Q. If you wish to talk to Mr. Brown at any time this
24 morning, you're welcome to do so. So if I ask you a
25 question and you're not sure how to answer my question, just

1 tell me you would like to talk to Mr. Brown and we'll take a
2 break and give you a chance to talk privately to him. You
3 can talk to him as much as you want. I'll give you as much
4 time as you want. Do you understand?

5 A. Yes.

6 Q. If there's anything I say today that you do not hear or
7 you do not understand, please be sure to let me know so I
8 can make the question clear for you. Do not answer a
9 question that confuses you or that you do not hear clearly.
10 And do not tell me that you understand something unless you
11 really do understand it. All right?

12 A. Yes.

13 Q. Okay. So, Mr. Golden, I just have to ask you a few
14 questions at the beginning to make sure you are competent to
15 discuss these issues with me this morning.

16 Can you state your full name, please, for the
17 record.

18 A. Cornett Golden.

19 Q. And how old are you?

20 A. Sixty.

21 Q. And how far did you go in school?

22 A. Complete or --

23 Q. I'm sorry, can you say that again.

24 A. Are you asking me how many years did I complete, sir?

25 Q. Yeah. Did you graduate from high school or did you drop

1 out?

2 A. No, sir. No, sir. I dropped out before I graduated.

3 Q. What grade were you in when you dropped out?

4 A. Twelfth.

5 Q. And have you gotten a GED since dropping out?

6 A. No, sir.

7 Q. Okay. Are you literate -- that is, are you able to read
8 and write pretty well?

9 A. Yes, sir.

10 Q. All right. And can you just tell me a little about your
11 employment history, what sort of jobs you have worked at
12 over time and for how long.

13 A. I worked at -- I started out with a paper route. I
14 worked at General Motors. I worked at Northwest Memorial
15 Hospital. I worked for Pan Am International Flight Academy.
16 I worked for a place before I came here called Douglas
17 Corporation. And I worked out of a number of temp services
18 in between times.

19 Q. Okay. Were these mostly blue-collar jobs, that is jobs
20 where you work with your hands?

21 A. Yes, sir.

22 Q. Okay. I know you're in custody, but I've got to ask you
23 a couple of questions about your use of alcohol and drugs.
24 In the last 24 hours, have you had any alcohol to drink?

25 A. No, sir.

1 Q. And are you under the influence of alcohol this morning?

2 A. No, sir.

3 Q. And I'm going to ask you the same question about drugs
4 and, again, to be clear, by "drugs" I mean anything that
5 could be considered a drug. So I mean recreational drugs
6 like marijuana or cocaine, prescription drugs that you get
7 from a doctor, or even over-the-counter drugs like aspirin
8 or Tylenol.

9 In the last 24 hours, have you taken any kind of
10 drugs or medications?

11 A. No.

12 Q. Okay. And are you under the influence of any kind of
13 drugs or medications today?

14 A. No.

15 Q. All right. How are you feeling today physically?

16 A. Good.

17 Q. Good. I'm glad to hear that.

18 And are you able to think clearly today?

19 A. Yes.

20 Q. Okay. So, Mr. Golden, I need to conduct what's called a
21 *Faretta* hearing, and that's a hearing that a judge needs to
22 have with a defendant when the defendant tells the judge
23 that he wants to represent himself. I just have to remind
24 you of some rights that you have and discuss some issues
25 with you.

1 So to begin with, I want to remind you that you do
2 have the constitutional right to be represented by an
3 attorney. You have the right to be represented by an
4 attorney whom you hire or if you cannot afford to hire an
5 attorney, by an attorney who is appointed to represent you
6 without charge. You also have the constitutional right to
7 represent yourself if you so choose.

8 It's my understanding from Mr. Brown and from your
9 letter to me that you want to give up your right to counsel
10 and you want to represent yourself in this case. Is that
11 correct?

12 A. Yes.

13 Q. Okay. I want to give you a chance to change your mind.
14 As I said, I also want to make sure that whatever you decide
15 your decision is fully informed. So I'm going to need to
16 provide some information to you. I'm required to do this
17 and also to ask you some additional questions.

18 So let me start by asking you, Mr. Golden, have
19 you received a copy of the indictment, the written charges
20 the government has made against you?

21 A. No, I don't have it.

22 Q. All right. Have you at some point in the last year or
23 so seen the written charges the government has made against
24 you?

25 A. In the last year? I'm not sure. It may have been a

1 little over a year since I seen it. I don't recall the
2 document. But for at least a little over a year.

3 Q. I'm sorry, say that again.

4 A. I may have been mistaken, but I think it's been over a
5 year, sir.

6 Q. Okay. At some point, though, you did get a chance to
7 review the written charges the government has made against
8 you?

9 A. Slightly, yes.

10 Q. Okay. Well, let me tell you about the indictment. The
11 indictment charges you with two counts of bank robbery.
12 You're aware of that, right?

13 A. Yes, sir.

14 Q. Okay. And let me explain to you what the government has
15 to prove to convict you of bank robbery and the maximum
16 penalties you will face if you are convicted.

17 For you to be convicted of bank robbery, the
18 government would have to prove, beyond a reasonable doubt,
19 that on or about the dates alleged in the indictment you
20 took money from bank tellers while that money was in the
21 care, custody, control or possession of the banks; that the
22 taking of the money in each case was either by force and
23 violence or by intimidation; and, finally, that the deposits
24 at the banks were at the time insured by the Federal Deposit
25 Insurance Corporation.

1 Do you understand that this is what you are
2 charged with in this case, Mr. Golden?

3 A. Yes.

4 Q. Okay. If you're convicted of these charges, both of
5 these charges, you'll be facing the following penalties: In
6 terms of imprisonment, the maximum term of imprisonment on
7 each count is 20 years. And I have the ability to order
8 those sentences to run consecutively, that is one after the
9 other. So, as a practical matter, if you are convicted of
10 both charges, you could be sentenced up to 40 years in
11 prison, 20 years plus 20 years, run consecutively.

12 In terms of supervised release, you could be
13 placed on supervised release for up to three years.

14 You could be fined up to \$250,000 on each count
15 for a total of \$500,000. If you are convicted, you will
16 have to pay a mandatory special assessment of \$100 for each
17 count of conviction for a total of \$200.

18 Under the mandatory Victim Restitution Act I would
19 be required to order you to pay restitution to the victims
20 of your crime if you are convicted.

21 I could also order you to forfeit the property
22 that's described in the forfeiture section of the
23 indictment. And I could order you to pay the costs of
24 prosecuting you.

25 Do you understand, Mr. Golden, if you are

1 convicted of these charges, those are the penalties you will
2 be facing?

3 A. Yes.

4 Q. Okay. I want to say a couple words to you about
5 supervised release. I know you probably know this, but I
6 need to tell you anyway.

7 Supervised release is what happens after you get
8 out of prison. So you go to prison, and serve your time,
9 and you get out of prison, and you're placed on supervised
10 release. I would decide how long you would serve on
11 supervised release if you are convicted. I would also
12 decide what conditions you have to follow while you are on
13 supervised release. For example, I would order you not to
14 commit any crimes while you are on supervised release.

15 I want to warn you that if you violate any of the
16 conditions of your supervised release, you could be sent
17 back to prison and you could be kept in prison for up to two
18 more years without getting any credit for the time you
19 already served on supervised release. Do you understand
20 that?

21 A. Yes.

22 Q. I also have to warn you that in the federal prison
23 system there is no parole. So if you are sentenced to
24 prison, you will have to serve your full sentence. You will
25 not be released from prison early on parole. Do you

1 understand that?

2 A. Yes.

3 Q. I also have to warn you that because you are a United
4 States citizen and you have been charged with a felony, if
5 you are convicted, you may lose your right to vote, to hold
6 public office, to serve on a jury or to possess any kind of
7 firearm or ammunition. Do you understand that?

8 A. Yes.

9 Q. Okay. And, finally, if you are convicted, I am going to
10 consult the United States Sentencing Guidelines in deciding
11 on your sentence, but those guidelines are not binding on
12 me. I will decide for myself the range of sentences that
13 they recommend in your case, and then I will decide for
14 myself whether to follow the recommendation, because it's
15 just a recommendation. It's not binding on me. In fact,
16 the law requires me to consider many things in deciding on a
17 sentence. The recommendation of the Sentencing Guidelines
18 is just one of those many things I have to consider.

19 So it's possible if you are convicted that you
20 will get a sentence longer or harsher than the Sentencing
21 Guidelines recommend. Do you understand that?

22 A. Yes.

23 Q. Okay. So let me just ask you a couple questions about
24 your familiarity with the law. Have you ever studied the
25 law in any kind of formal way, Mr. Golden?

1 A. No.

2 Q. Have you ever represented yourself before in any kind of
3 legal proceeding?

4 A. No, sir.

5 Q. Okay. Are you familiar with the rules that govern the
6 way a criminal case is tried in federal court, including
7 rules about what evidence can or cannot be introduced at
8 trial?

9 A. I didn't quite get you, Your Honor.

10 Q. That's fine. I asked you are you familiar with the
11 rules that govern the way that criminal cases are tried in
12 federal court?

13 A. A little bit. Not totally.

14 Q. All right. Have you ever read the Federal Rules of
15 Evidence?

16 A. No, sir.

17 Q. Have you read the federal rules of --

18 A. Let me take that back. I don't know what the federal --
19 is that like the federal proceedings?

20 Q. Well, there is a couple different sets of rules that
21 apply in your case. One are the Federal Rules of Evidence.
22 Those are the rules about what evidence can and cannot be
23 introduced at trial. Then there are the Federal Rules of
24 Criminal Procedure that they basically set forth the
25 procedures that we have to follow, what hearings we have to

1 have, what has to happen at those hearings, what rights you
2 have, what deadlines apply, things like that.

3 So there's two major sets of rules that would
4 apply to your case, and I'm just wondering whether you
5 remember reading either of those sets of rules?

6 A. The federal procedure -- criminal procedure I read parts
7 of. I never read the evidence book.

8 Q. Okay. If you do go forward and represent yourself, you
9 will want to be sure to read those rules.

10 How about the Sentencing Guidelines? Have you
11 ever looked at the United States Sentencing Guidelines?

12 A. Yes, sir.

13 Q. Okay. And I think, if my memory serves, that either
14 Mr. Brown or your former attorneys or maybe both have gone
15 through the guidelines with you and talked to you about the
16 guidelines. Is that correct?

17 A. Somewhat. Yes, sir.

18 Q. Okay. So, Mr. Golden, I want to make sure you
19 understand that if you do represent yourself, you're going
20 to be on your own. And by that I mean if you represent
21 yourself, I will not give you any assistance or advice about
22 how you should defend yourself or about anything else. That
23 will not be my role. Do you understand that?

24 A. Yes.

25 Q. Okay. If I see you making a mistake, I'm not going to

1 bring the mistake to your attention. For example, if the
2 government offers evidence that's not admissible under the
3 rules of evidence, I'm not going to warn you that that
4 evidence is not admissible. I can't be your coach. I can't
5 be giving you advice. Do you understand that?

6 A. Yes.

7 Q. Okay. The rules that govern this case, as I've already
8 mentioned some of them -- the rules of evidence and the
9 rules of criminal procedure -- are pretty technical and
10 complex, and even experienced attorneys and judges sometimes
11 have trouble with them.

12 If you represent yourself, I'm not going to relax
13 any of the rules for your benefit. You are going to have to
14 follow the rules just like the prosecutors have to follow
15 the rules. Do you understand that?

16 A. Yes.

17 Q. All right. If you represent yourself, you also are
18 going to have to observe proper decorum in the courtroom.
19 You will have to behave civilly and respectfully, which
20 you've always done when you have appeared before me.

21 You will also have to obey my rulings even if you
22 disagree with my rulings. For example, if I order you not
23 to say something in front of the jury, you have to obey my
24 order even if you disagree with me. If my order is wrong
25 and you're convicted, then you will be able to ask the court

1 of appeals to review my order and reverse your conviction.

2 In the meantime, though, you have to obey my orders. Do you
3 understand that, Mr. Golden?

4 A. Yes.

5 Q. All right. And will you commit to me that you will
6 follow the rules and you will follow my orders if you
7 represent yourself?

8 A. Yes.

9 Q. Okay. I have to warn you that if you do refuse to obey
10 the rules or my orders -- if, for example, you were to
11 persist in trying to introduce evidence that I ruled as
12 inadmissible, I could hold that you have forfeited your
13 right to represent yourself and I could order Mr. Brown to
14 step in and take over your representation. So I just want
15 you to understand that that would be the consequence if you
16 were to fail to obey the rules and my orders. Do you
17 understand that?

18 A. Yes.

19 Q. All right. I also have to warn you, Mr. Golden, that if
20 you engage in any delaying tactics or any other kinds of
21 misconduct while representing yourself, I may hold that you
22 have forfeited the right to represent yourself and order
23 Mr. Brown to take over your defense.

24 The Eighth Circuit, which is the appellate court
25 that I report to, has said -- and I'm going to quote to you

1 from one of their opinions -- "defendant is not entitled to
2 use the right of self-representation as a tactic for delay,
3 for disruption, for distortion of the system or for
4 manipulation of the trial process."

5 So if I get, at any point, the sense that you're
6 using your right to represent yourself to delay this
7 proceeding or to mess around with this proceeding, I could
8 order that you have forfeited your right to represent
9 yourself and ask Mr. Brown to step in and take over your
10 defense. Do you understand that?

11 A. Yes.

12 Q. Okay. I also want to make sure you understand that if
13 you do elect to represent yourself, you can't later complain
14 on appeal or otherwise that your self-representation was
15 inadequate. In other words, you can't ask a judge to
16 overturn your conviction because you did not have adequate
17 representation when it was you that decided to represent
18 yourself. Do you understand?

19 A. Yes.

20 Q. Okay. The last thing I want to warn you about is in a
21 letter to me you said that you have some motions you want to
22 submit. I want you to understand that if you do proceed
23 pro se, it doesn't mean that we rip everything up and we
24 start the case all over again. Some deadlines have already
25 passed, so it may be too late for you to file the motions

1 that you want to file. I don't know what kind of motions
2 you're talking about. You can go ahead and file them, but
3 it's possible that I'm going to tell you that you are too
4 late to file those motions.

5 So I want to make sure you understand that
6 stepping in and representing yourself you don't go back to
7 square one. You pick up the case as it stands today. Do
8 you understand?

9 A. Um, I'm not familiar with the deadlines, Your Honor.
10 Which motion deadline is already expired?

11 Q. Well, I can't tell you that sitting here. Mr. Brown can
12 talk to you after the hearing. But at the very beginning of
13 the case, the magistrate judge enters a scheduling order and
14 in that order he or she -- I can't remember which -- sets
15 forth certain deadlines for bringing motions and making
16 certain requests and exchanging information.

17 So I don't know what kind of motions you want to
18 bring. They might be timely. They might not be timely.
19 That's one of the things you'll have to figure out if you
20 represent yourself. But I'm just warning you that we're not
21 starting over from square one. Do you understand?

22 A. I can understand that part, Your Honor.

23 Q. Okay.

24 A. But I wanted to be sure on which -- can I speak with
25 Mr. Brown a minute?

1 Q. Yep, you can. We'll put you in a separate room with
2 Mr. Brown.

3 THE COURT: Mr. Brown, you let us know when you
4 are ready to rejoin us.

5 (A discussion was held off the record.)

6 BY THE COURT:

7 Q. Mr. Golden, you are back. Are you able to see and hear
8 me?

9 A. Yes, sir.

10 Q. Were you able to discuss whatever you wanted with
11 Mr. Brown?

12 A. Yes, sir.

13 Q. Okay. I will proceed, then.

14 So, Mr. Golden, I intend to appoint Mr. Brown to
15 serve as standby counsel. That means that Mr. Brown will
16 remain available to assist you by answering your questions.
17 He will also be available to take over your defense if I
18 decide that that is necessary or if you should change your
19 mind about representing yourself.

20 I want to be clear with you that by standby
21 counsel Mr. Brown will be available to you to consult with,
22 but he will not be representing you. So you can't decide,
23 for example, that he will file some motions and you will
24 file others or that he will argue some matters and you will
25 argue others or he will question some witnesses and you will

1 question others. You remain solely responsible for
2 representing yourself and trying your case. Do you
3 understand?

4 A. Yes.

5 Q. All right. Mr. Brown will be available to answer your
6 questions, but he's not going to give you unsolicited
7 advice. In other words, if he sees you making a mistake, he
8 is not going to bring it to your attention on his own. He
9 will give you his opinion only if and when you ask for it.

10 So if you never ask him any questions, he is not
11 going to say anything to you. It will be up to you to ask
12 questions of him. He's not going to volunteer advice. Do
13 you understand that?

14 A. Yes.

15 Q. Okay. And do you have any objection to Mr. Brown being
16 appointed as standby counsel and being available to you?

17 A. No, sir.

18 Q. Okay. So, Mr. Golden, let me just say a few more words
19 to you and then we will wrap this up. I have to advise you
20 that, in my opinion, a trained lawyer, such as Mr. Brown,
21 will defend you far better than you will defend yourself. I
22 think it is not wise of you to represent yourself,
23 especially in a case like this where you face the risk of
24 what could be, practically speaking, a lifetime in prison.
25 As I said, you're looking at a maximum of 40 years in

1 prison, and at your age that could be the rest of your life.

2 Legal training and legal experience are very
3 important in defending a criminal case in federal court.

4 It's highly likely that an attorney, such as Mr. Brown, will
5 be aware of legal issues and legal arguments that you are
6 not going to be aware of.

7 It's also highly likely that Mr. Brown will be
8 aware of deadlines and other procedural rules that you will
9 not be aware of, and your lack of knowledge may cause you to
10 lose the ability to raise certain issues or to make certain
11 arguments.

12 There is an old saying, someone who represents
13 himself has a fool for a client. There is a reason that is
14 a well-known saying. Representing yourself in a complicated
15 federal criminal case like this one is a very risky matter.
16 In my experience, I have had, I don't know, six, seven,
17 eight defendants represent themselves in my career and
18 typically they do a very poor job and typically things do
19 not turn out very well for them.

20 So you have the right if you wish to represent
21 yourself, but I want to tell you -- I want to urge you not
22 to do so and to permit Mr. Brown to continue to represent
23 you.

24 So I'm not asking you to agree with me, but I'm
25 asking do you understand the advice that I have just given

1 you?

2 A. Yes, I understand.

3 Q. Okay. And is it still your desire to represent
4 yourself?

5 A. Yes, sir, Your Honor.

6 Q. Okay. Are you making this decision to waive your right
7 to be represented by counsel voluntarily and of your own
8 free will?

9 A. Yes.

10 Q. Has anyone forced you or threatened you or coerced you
11 or done any violence to you or to anyone else in order to
12 make you waive your right to counsel?

13 A. No, sir.

14 Q. Okay. Before we conclude this hearing, do you have any
15 questions for me or for Mr. Brown?

16 A. No, sir, Your Honor.

17 Q. All right.

18 A. Yes, I do. I'm sorry.

19 Q. All right.

20 A. The Court would be letting me know of any deadlines that
21 come up or anything, though, right? Am I correct?

22 Q. No. Sometimes deadlines appear in court orders, and you
23 will be getting copies of those orders and in that way I
24 would let you know of deadlines. There are other deadlines
25 that appear in the rules, like the Federal Rules of Criminal

1 Procedure. I don't make attorneys aware of that. Attorneys
2 are expected to know what's in the Federal Rules of Criminal
3 Procedure. So you'll want to be careful about that. You
4 will want to read those rules and if you have questions, you
5 will want to ask those questions of Mr. Brown.

6 A. Yes, sir. Yes, sir.

7 Q. Okay. Any other questions for me or for Mr. Brown?

8 A. No, sir.

9 Q. All right.

10 THE COURT: Mr. Brown, is there anything else you
11 think I should cover with Mr. Golden?

12 MR. BROWN: Nothing that needs to be covered with
13 Mr. Golden, Your Honor, but I do have some questions about
14 the logistics of the case if this is an appropriate time?

15 THE COURT: Sure. Go ahead.

16 MR. BROWN: I imagine the Court is interested and
17 just for scheduling -- as standby counsel I have to be
18 present for it -- will the Court be issuing a trial order?

19 THE COURT: I think we already did issue a trial
20 order. Let me just ask the prosecutors. I can look it up
21 here. I know it's set for August.

22 MR. SING: August 2nd, Your Honor.

23 THE COURT: August 2nd is when we're set? I
24 thought we had moved that. Hold on just a second here.

25 MR. BROWN: The latest docket entry, if I can be

1 of help, is 96 setting it for August 2nd. The docket is at
2 101, and I don't see any change to the trial order after the
3 August 2nd date.

4 THE COURT: Okay. I'm going to have my courtroom
5 deputy contact you then because I am going to be out of town
6 that week and I know she arranged to switch -- you know, the
7 way we're doing criminal trials now, we only have one
8 courtroom that we can use because of the pandemic and so we
9 have to kind of switch with each other.

10 I'm pretty sure that Mr. Golden's trial has been
11 rescheduled, but I don't know the date off the top of my
12 head. So I will ask my courtroom deputy to be in contact
13 with you. But, yeah, Mr. Brown, we'll need you at trial
14 because at any moment I can ask standby -- I haven't had to
15 do it yet fortunately in my career, but other judges have
16 asked standby counsel to step in and take over.

17 You will want to continue to follow all the
18 filings on the docket, and I will need you at any kind of
19 in-person hearings that we have, including the trial itself.
20 Caryn will keep working with you. You will be in the loop
21 on the scheduling of things.

22 MR. BROWN: I appreciate that, Your Honor. I just
23 wanted to make sure that I had -- the federal court trial
24 dates tend to go on the date set.

25 THE COURT: They do. It's not like state court,

1 especially these days when we have to reserve Judge
2 Tunheim's courtroom to try a case. It's possible by August
3 that we'll be back in our own courtrooms. It just depends
4 on how quickly people are vaccinated. You know, I think
5 once we get over half of the state vaccinated, the judges
6 will talk about moving the trials back into their own
7 courtrooms. At that point we should be able to get
8 vaccinated jurors and vaccinated defendants. I'm told they
9 will start vaccinations at Sherburne County soon.

10 Mr. Golden, have they started vaccinating the
11 detainees out there yet?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Have you be vaccinated?

14 THE DEFENDANT: No, sir.

15 THE COURT: Okay. I'm told it's on its way, that
16 they are working on getting the inmates vaccinated out
17 there.

18 THE DEFENDANT: They did start, and some got it
19 and some ain't. They haven't done the whole jail yet,
20 though.

21 THE COURT: They are probably starting with guys
22 that have conditions that make them vulnerable. And you
23 being sixty and it sounds like in pretty good health, you
24 are probably not on that initial list.

25 Okay. Let's see. Mr. Thompson, is there anything

1 else that you want me to cover with Mr. Golden?

2 MR. THOMPSON: Your Honor, the only thing I would
3 add is I would be remiss not to tell Mr. Golden I think this
4 is an incredibly foolish decision. And I have been doing
5 this for a long time, and I have had defendants decide to go
6 pro se. It never ends well. Almost always what happens is
7 at some point through the trial the defendant essentially
8 gives up because he realizes he doesn't know how to try a
9 case. It's a lot more difficult than it looks.

10 And, Mr. Golden, we will try this case fairly, but
11 we will pull no punches, despite the fact that you are
12 pro se. And if you think that you are going to have a
13 motion or get to delay the trial based on this, I think
14 Judge Schiltz has already told you that's probably not going
15 to happen.

16 So I would urge you not to do this. This is not a
17 good decision. Mr. Brown is an experienced lawyer, and I
18 promise you you will have a better result with Mr. Brown
19 representing you. Thank you.

20 THE COURT: So, Mr. Golden, you have heard my
21 advice and you have heard the prosecutor's advice, but
22 ultimately the decision is yours. In light of all we've
23 discussed, is it still your wish to reject Mr. Brown's
24 representation and represent yourself instead?

25 THE DEFENDANT: Your Honor, well, at any other

1 length of time he's on standby, so I can let him know if I
2 wish not to continue like this?

3 THE COURT: Yeah. If you change your mind, you
4 can let me know that and Mr. Brown will take over your
5 defense. But I want to warn you you can only do that once.
6 This isn't tag team wrestling where you can tag him in and
7 then you tag in and he tags in. So you will get one crack
8 to have him take over your defense, but that's it. Once he
9 takes over your defense again, I'm not going to allow you to
10 represent yourself. So if you do change your mind, you can
11 have Mr. Brown step back in and represent you.

12 THE DEFENDANT: Okay, Your Honor.

13 THE COURT: But remember that at that point he may
14 not be as up on the case as he would be if he was
15 representing you all along. I mean, I know he will do the
16 best he can, but he may not be as effective as he would be
17 if he was representing you the whole time. So you are going
18 to be running that risk. Do you understand that?

19 THE DEFENDANT: I didn't get what you just said.

20 THE COURT: I'm sorry, I didn't understand you.

21 THE DEFENDANT: I didn't get totally what you just
22 said, Your Honor.

23 THE COURT: You did not hear me?

24 THE DEFENDANT: I totally didn't hear everything
25 you said.

1 THE COURT: I'm sorry. It's with your mask on
2 sometimes it's a little hard for me to understand you. I'm
3 sorry. I will try that again.

4 So if you decide later on that you want to change
5 your mind and represent yourself -- I'm sorry, and have
6 Mr. Brown represent you, I will allow you to do that. That
7 is, I will allow Mr. Brown to take over your defense. But
8 you can only -- but once that happens, you can't tell me now
9 I want to go back to representing myself again. You can't
10 keep changing your mind. Do you understand?

11 THE DEFENDANT: Yes, sir, I understand.

12 THE COURT: So you will get one chance and one
13 chance only to have Mr. Brown take over your defense. After
14 that you're stuck with him. I'm not going to let you
15 essentially replace him again with yourself. Do you
16 understand?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Okay. And what I was warning you
19 about and what you might not have heard is if you do -- in a
20 few weeks or whenever or at trial -- say that you want
21 Mr. Brown to take over your defense, he may not be as
22 effective as he would be if he was representing you the
23 whole time. I mean, he may not be as up on the case as he
24 is now. So that's a risk you will run. Do you understand?

25 THE DEFENDANT: Okay. Well, I'm not trying to use

1 any tactics, Your Honor, to courts, none of that. It's my
2 life. I'm just trying to be sure about what I do.

3 THE COURT: Yep. That's why we've spent the last
4 hour having this conversation. I know how important it is,
5 and that's why I want to make sure you are fully informed.

6 So how do you want to proceed? Do you want to
7 represent yourself or do you want Mr. Brown to continue to
8 represent you?

9 THE DEFENDANT: At the present time, Your Honor, I
10 would -- I will myself. If I change my mind, then
11 Mr. Brown, I will give him a call and let him know to --
12 that I would like him to represent me.

13 THE COURT: Okay. I find that -- I'm sorry, go
14 ahead, sir.

15 THE DEFENDANT: I have a question. You keep
16 saying "trial." The trial date is before the date that you
17 said, August 2nd, or is it after?

18 THE COURT: I'm not sure. It was originally
19 scheduled for August 2nd. I can't do it August 2nd. I know
20 that my courtroom deputy arranged with another judge for me
21 to switch weeks with him or her. I don't know whether that
22 week is before August 2nd or after August 2nd. I don't know
23 what the week is. I thought we had sent out a new trial
24 notice. I was mistaken. But my courtroom deputy will be in
25 contact with everybody soon and let you know what the new

1 date is.

2 THE DEFENDANT: So can you also let them know to
3 inform me, send me a letter letting me know what the outcome
4 is?

5 THE COURT: I will. We'll inform Mr. Brown. He
6 will pass that on to you. And I will send you a letter
7 directly to the Sherburne County Jail. So you will get --
8 we'll let you know in two different ways.

9 THE DEFENDANT: Yes, sir. I really appreciate
10 that.

11 THE COURT: Okay. All right. I find, then, that
12 the defendant, Cornett Golden, is mentally competent and
13 capable of waiving his right to counsel. And I find that
14 Mr. Golden's waiver of his right to counsel is free,
15 voluntary, knowing, and informed. I, therefore, grant
16 Mr. Golden's request that he be permitted to represent
17 himself during the remainder of these proceedings.

18 I also appoint Mr. Brown to serve as standby
19 counsel for Mr. Golden. As I've discussed, Mr. Brown will
20 be available to assist Mr. Golden if Mr. Golden wishes, and
21 he will be available to take over the representation if
22 Mr. Golden changes his mind or if I so order.

23 All right. That is all I have for you today.
24 Mr. Golden, is there anything more you want to talk about
25 this morning?

1 THE DEFENDANT: No, sir, Your Honor.

2 THE COURT: Okay. And, Mr. Thompson, anything
3 more on the government's side?

4 MR. THOMPSON: No, Your Honor. Thank you.

5 THE COURT: Okay. I will have Caryn get ahold of
6 you hopefully today sometime and let you know about the date
7 for the trial.

8 All right. Thank you, everyone.

9 (Court adjourned at 10:04 a.m.)

10 * * *

11 I, Debra Beauvais, certify that the foregoing is a
12 correct transcript from the record of proceedings in the
13 above-entitled matter.

14 Certified by: s/Debra Beauvais
15 Debra Beauvais, RPR-CRR
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